

Hon. Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

JENNYL CALUGAS,

Plaintiff,

vs.

PATENAUDE & FELIX, A.P.C., a California
Corporation; and MATTHEW CHEUNG, an
individual,

Defendants.

No. 2:15-cv-01332-MJP

ANSWER AND AFFIRMATIVE
DEFENSES TO PLAINTIFF'S
AMENDED COMPLAINT

Defendants Patenaude & Felix, A.P.C. and Matthew Cheung hereby provide Answers and Affirmative Defenses to Plaintiff's Amended Complaint ("the Complaint"). (Dkt # 8).

I. INTRODUCTION

1.1 This paragraph of the Complaint does not set forth a factual allegation, but merely presents legal conclusions regarding 15 U.S.C. § 1692, the federal Fair Debt Collection Practices Act ("FDCPA"). To the extent a response is required, Defendants deny liability under the FDCPA.

1.2 This paragraph of the Complaint does not set forth a factual allegation, but merely indicates that 15 U.S.C. § 1692 and Chapter 19.86 RCW, Washington's State Consumer Protection Act ("CPA") are statutes under which Plaintiff has filed this lawsuit. To the extent a response is required, Defendants deny liability under the FDCPA and the CPA.

1 1.3 Defendants deny the allegations set forth in this paragraph of the Complaint.

2 1.4 Defendants deny the allegations set forth in this paragraph of the Complaint.

3 1.5 Defendants deny the allegations set forth in this paragraph of the Complaint.

4
5 **II. JURISDICTION AND VENUE**

6 2.1 Defendants admit that this Court's jurisdiction to hear cases under 15 U.S.C.
7 § 1692k(d) and 28 U.S.C § 1331. Defendants reserve the right to challenge jurisdiction should
8 facts become known indicating that said jurisdiction is not proper. Defendants deny that
9 declaratory relief is available under 28 U.S.C. § § 2201-2202 for claims under the FDCPA.

10 2.2 Defendants do not dispute venue, but Defendants deny that any alleged events or
11 omissions occurred that would give rise to a cause of action.

12 **III. PARTIES**

13 3.1 Defendants are currently without knowledge or information sufficient to form a
14 belief as to the truth or falsity of the allegations set forth in this paragraph of the Complaint,
15 and therefore deny the same pursuant to Fed. R. Civ. P. 8(b)(5).

16 3.2 Defendants are currently without knowledge or information sufficient to form a
17 belief as to the truth or falsity of the allegations set forth in this paragraph of the Complaint,
18 and therefore deny the same pursuant to Fed. R. Civ. P. 8(b)(5).

19 3.3 Objection, this allegation calls for a legal conclusion. To the extent a response
20 is required, Defendants are currently without knowledge or information sufficient to form a
21 belief as to the truth or falsity of the allegations set forth in this paragraph of the Complaint,
22 and therefore deny the same pursuant to Fed. R. Civ. P. 8(b)(5).

23 3.4 Objection, this allegation calls for a legal conclusion. To the extent a response
24 is required, Defendants are currently without knowledge or information sufficient to form a
25 belief as to the truth or falsity of the allegations set forth in this paragraph of the Complaint,
and therefore deny the same pursuant to Fed. R. Civ. P. 8(b)(5).

1 3.5 Objection, this allegation calls for a legal conclusion. To the extent a response
2 is required, Defendants are currently without knowledge or information sufficient to form a
3 belief as to the truth or falsity of the allegations set forth in this paragraph of the Complaint,
4 and therefore deny the same pursuant to Fed. R. Civ. P. 8(b)(5).

5 3.6 Defendants admit that Patenaude & Felix, A.P.C. is a professional corporation
6 that maintains an office in California. Defendants also admit that Patenaude & Felix maintains
7 an office in Washington with UBI number 602953078, and that Matthew Cheung is its
8 registered agent in Washington. Defendants deny any additional allegations contained or
9 implied in this paragraph of the Complaint.

10 3.7 Defendants admit that Patenaude & Felix, A.P.C. has a license to conduct
11 collections in Washington. Defendants object to the allegation that Patenaude & Felix, A.P.C
12 is a “collection agency” as that term is used in Plaintiff’s Complaint because it calls for a legal
13 conclusion and deny on this basis.

14 3.8 Objection, this allegation calls for a legal conclusion. To the extent a response
15 is required, Defendants are currently without knowledge or information sufficient to form a
16 belief as to the truth or falsity of the allegations set forth in this paragraph of the Complaint,
17 and therefore deny the same pursuant to Fed. R. Civ. P. 8(b)(5). Defendants admit, however,
18 that the Washington office filed a collection lawsuit against Plaintiff on behalf of its client.

19 3.9 Objection, this allegation calls for a legal conclusion. To the extent a response
20 is required, Defendants are currently without knowledge or information sufficient to form a
21 belief as to the truth or falsity of the allegations set forth in this paragraph of the Complaint,
22 and therefore deny the same pursuant to Fed. R. Civ. P. 8(b)(5). Defendants admit, however,
23 that Patenaude & Felix regularly uses the telephone.

24 3.10 Objection, this allegation calls for a legal conclusion. To the extent a response
25 is required, Defendants are currently without knowledge or information sufficient to form a

1 belief as to the truth or falsity of the allegations set forth in this paragraph of the Complaint,
2 and therefore deny the same pursuant to Fed. R. Civ. P. 8(b)(5). Defendants admit, however,
3 that Patenaude & Felix regularly uses the mail.

4 3.11 Objection, this allegation calls for a legal conclusion. To the extent a response
5 is required, Defendants deny this allegation of the Complaint.

6 3.12 Defendants admit only that Patenaude & Felix is a professional corporation that
7 maintains an office in California. Defendants admit that Patenaude & Felix also maintains an
8 office in Washington, and that Matthew Cheung is its registered agent in Washington.
9 Defendants admit that they act as attorneys on behalf of creditor clients. Defendants deny any
10 additional allegations contained or implied in this paragraph of the Complaint.

11 3.13 Defendants admit only that Patenaude & Felix acts as attorneys on behalf of
12 creditors. Defendants object to the remainder of this paragraph of the Complaint to the extent
13 that this paragraph asserts a legal conclusion and denies this paragraph on that basis.

14 3.14 Defendants admit only that Patenaude & Felix acts as attorneys on behalf of
15 creditors. Defendants object to the remainder of this paragraph of the Complaint to the extent
16 that this paragraph asserts a legal conclusion and denies this paragraph on that basis.

17 3.15 Defendants admit only that Patenaude & Felix acts as attorneys on behalf of
18 creditors. Defendants object to the remainder of this paragraph of the Complaint to the extent
19 that this paragraph asserts a legal conclusion and denies this paragraph on that basis.

20 3.16 Defendants admit defendant Matthew Cheung is an attorney and registered agent
21 for Patenaude & Felix, A.P.C. in Washington, and that Mr. Cheung acts as an attorney on
22 behalf of creditors. Defendants object to the remainder of this paragraph of the Complaint to
23 the extent that this paragraph asserts a legal conclusion and denies this paragraph on that basis.

24 3.17 Defendants admit that Mr. Cheung is the sole attorney at the Washington office
25 of Patenaude & Felix.

1 3.18 Defendants object to this paragraph of the Complaint to the extent that this
2 paragraph asserts a legal conclusion and denies this paragraph on that basis.

3 3.19 Defendants object to this paragraph of the Complaint to the extent that this
4 paragraph asserts a legal conclusion and denies this paragraph on that basis.

5 3.20 Defendants object to this paragraph of the Complaint to the extent that this
6 paragraph asserts a legal conclusion and denies this paragraph on that basis. However,
7 Defendants admit that Mr. Cheung regularly uses the telephone.

8 3.21 Defendants object to this paragraph of the Complaint to the extent that this
9 paragraph asserts a legal conclusion and denies this paragraph on that basis. However,
10 Defendants admit that Mr. Cheung regularly uses the mail.

11 3.22 Defendants object to this paragraph of the Complaint to the extent that this
12 paragraph asserts a legal conclusion and denies this paragraph on that basis. However,
13 Defendants admit that Mr. Cheung regularly uses the mail.

14 3.23 Defendants admit that Mr. Cheung is an attorney licensed in the State of
15 Washington, and that he is permitted to act as an attorney on behalf of his creditor clients.
16 Defendants object to the remainder of this paragraph of the Complaint to the extent that this
17 paragraph asserts a legal conclusion and denies the remainder of this paragraph on that basis.

18 3.24 Defendants admit that Mr. Cheung is an attorney licensed in the State of
19 Washington, and that he is permitted to act as an attorney on behalf of his creditor clients.
20 Defendants object to the remainder of this paragraph of the Complaint to the extent that this
21 paragraph asserts a legal conclusion and denies the remainder of this paragraph on that basis.

22 3.25 Defendants admit that Mr. Cheung is an attorney licensed in the State of
23 Washington, and that he is permitted to act as an attorney on behalf of his creditor clients.
24 Defendants object to the remainder of this paragraph of the Complaint to the extent that this
25 paragraph asserts a legal conclusion and denies the remainder of this paragraph on that basis.

3.26 Defendants admit that Mr. Cheung is an attorney licensed in the State of Washington, and that he is permitted to act as an attorney on behalf of his creditor clients. Defendants object to the remainder of this paragraph of the Complaint to the extent that this paragraph asserts a legal conclusion and denies the remainder of this paragraph on that basis.

3.27 Defendants admit only that the Washington office of Patenaude & Felix commenced a collection lawsuit against Plaintiff, who had failed to meet the obligations that she had promised to honor. Defendants deny that the California branch of Patenaude & Felix had commenced a collection action against Plaintiff. Defendants deny any additional allegations not expressly admitted.

IV. FACTS

4.1 Defendants admit that on or about August 20, 2014, Matthew Cheung of the Washington office of Patenaude & Felix, on behalf of its client, caused Plaintiff to be served with a Summons and Complaint for Monies Due, and that the Complaint was subsequently filed. Defendants deny any additional allegations in this paragraph of Plaintiff's Complaint.

4.2 Defendants admit that the Complaint for Monies Due speaks for itself, and that it admits and denies this paragraph of Plaintiff's complaint to the extent the allegations are consistent with that document. Defendants deny any additional allegations that may be contained or implied in this paragraph of the Complaint.

4.3 Defendants admit that the court docket, and the documents contained within it, in the underlying collection action speak for themselves, and admit and deny to the extent that Plaintiff's allegation accurately represents this court docket and the filed documents. Defendants deny any additional allegations that may be contained or implied in this paragraph of the Complaint.

1 4.4 Defendants are currently without knowledge or information sufficient to form a
2 belief as to the truth or falsity of the allegations set forth in this paragraph of the Complaint,
3 and therefore deny the same pursuant to Fed. R. Civ. P. 8(b)(5).

4 4.5 Defendants admit that the court docket, and the documents contained within it,
5 in the underlying collection action speak for themselves, and admit and deny to the extent that
6 Plaintiff's allegation accurately represents this court docket and the filed documents.

7 4.6 Defendants admit that the court docket, and the documents contained within it,
8 in the underlying collection action speak for themselves, and admit and deny to the extent that
9 Plaintiff's allegation accurately represents this court docket and the filed documents.

10 4.7 Defendants are currently without knowledge or information sufficient to form a
11 belief as to the truth or falsity of the allegations set forth in this paragraph of the Complaint,
12 and therefore deny the same pursuant to Fed. R. Civ. P. 8(b)(5).

13 4.8 Defendants are currently without knowledge or information sufficient to form a
14 belief as to the truth or falsity of the allegations set forth in this paragraph of the Complaint,
15 and therefore deny the same pursuant to Fed. R. Civ. P. 8(b)(5).

16 4.9 Defendants admit that the Washington office of Patenaude & Felix sent a letter
17 dated September 13, 2014, with documentation verifying the debt. Defendants deny any other
18 allegation contained or implied in this paragraph of the Complaint.

19 4.10 Defendants are currently without knowledge or information sufficient to form a
20 belief as to the truth or falsity of the allegations set forth in this paragraph of the Complaint,
21 and therefore deny the same pursuant to Fed. R. Civ. P. 8(b)(5).

22 4.11 Defendants are currently without knowledge or information sufficient to form a
23 belief as to the truth or falsity of the allegations set forth in this paragraph of the Complaint,
24 and therefore deny the same pursuant to Fed. R. Civ. P. 8(b)(5).

1 4.12 Defendants deny that Plaintiff sent a “Notice of Appearance” to Matthew
2 Cheung the attorney that filed the collection action and the registered agent at the Washington
3 office of Patenaude & Felix. Instead, Plaintiff’s counsel Antoinette Davis appears to have
4 intentionally sent a letter via facsimile, the contents of which speaks for itself, to the California
5 branch of Patenaude & Felix in a manner intended to avoid providing timely notice of
6 appearance to Matthew Cheung. Defendants deny any additional allegation contained in this
7 paragraph of the Complaint.

8 4.13 Defendants deny that Plaintiff sent the December 16, 2014 letter to Matthew
9 Cheung the attorney that filed the collection action and the registered agent at the Washington
10 office of Patenaude & Felix. Instead, Plaintiff’s counsel Antoinette Davis appears to have
11 intentionally sent a fax to the California branch of Patenaude & Felix in a manner intended to
12 avoid providing timely notice to Matthew Cheung regarding the contents of the alleged letter,
13 the contents of which speak for itself. Defendants deny any additional allegation contained in
14 this paragraph of the Complaint.

15 4.14 Defendants are currently without knowledge or information sufficient to form a
16 belief as to the truth or falsity of the allegations set forth in this paragraph of the Complaint,
17 and therefore deny the same pursuant to Fed. R. Civ. P. 8(b)(5).

18 4.15 Defendants admit that the Judgment speaks for itself, and admit and deny to the
19 extent that Plaintiff’s allegation accurately represents this document.

20 4.16 Defendants admit that the court docket, and the documents contained within it,
21 in the underlying collection action speak for themselves, and admit and deny to the extent that
22 Plaintiff’s allegation accurately represents this court docket and the filed documents.
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1 4.17 Defendants admit that the court docket, and the documents contained within it,
2 in the underlying collection action speak for themselves, and admit and deny to the extent that
3 Plaintiff's allegation accurately represents this court docket and the filed documents.

4 4.18 Defendants deny this allegation of Plaintiff's Complaint.

5 4.19 Defendants are currently without knowledge or information sufficient to form a
6 belief as to the truth or falsity of the allegations set forth in this paragraph of the Complaint,
7 and therefore deny the same pursuant to Fed. R. Civ. P. 8(b)(5).

8 4.20 Defendants admit that the court docket, and the documents contained within it,
9 in the underlying collection action speak for themselves, and admit and deny to the extent that
10 Plaintiff's allegation accurately represents this court docket and the filed documents.

11 4.21 Defendants admit that the court docket, and the documents contained within it,
12 in the underlying collection action speak for themselves, and admit and deny to the extent that
13 Plaintiff's allegation accurately represents this court docket and the filed documents.

14 4.22 Defendants admit that the court docket, and the documents contained within it,
15 in the underlying collection action speak for themselves, and admit and deny to the extent that
16 Plaintiff's allegation accurately represents this court docket and the filed documents.
17 Defendants deny the remaining allegations in this paragraph of Plaintiff's Complaint.

18 4.23 Defendants admit that the court docket, the documents contained within it, and
19 the court record in the underlying collection action speak for themselves, and admit and deny to
20 the extent that Plaintiff's allegation accurately represents this court docket and the filed
21 documents. Defendants otherwise deny the allegations in this paragraph of the Complaint.

22 4.24 Defendants admit that the court docket, the documents contained within it, and
23 the court record in the underlying collection action speak for themselves, and admit and deny to
24 the extent that Plaintiff's allegation accurately represents this court docket and the filed
25 documents. Defendants otherwise deny the allegations in this paragraph of the Complaint.

1 4.25 Defendants admit that the court docket, the documents contained within it, and
2 the court record in the underlying collection action speak for themselves, and admit and deny to
3 the extent that Plaintiff's allegation accurately represents this court docket and the filed
4 documents. Defendants otherwise deny the allegations in this paragraph of the Complaint.

5 4.26 Defendants admit that the court docket, the documents contained within it, and
6 the court record in the underlying collection action speak for themselves, and admit and deny to
7 the extent that Plaintiff's allegation accurately represents this court docket and the filed
8 documents. Defendants otherwise deny the allegations in this paragraph of the Complaint.

9 4.27 Defendants admit that the court docket, the documents contained within it, and
10 the court record in the underlying collection action speak for themselves, and admit and deny to
11 the extent Plaintiff's allegation accurately represents this court docket and the filed documents.

12 4.28 Defendants are currently without knowledge or information sufficient to form a
13 belief as to the truth or falsity of the allegations set forth in this paragraph of the Complaint,
14 and therefore deny the same pursuant to Fed. R. Civ. P. 8(b)(5).

15 **V. FAIR DEBT COLLECTION PRACTICES ACT**

16 5.1 Defendants re-allege paragraphs 1.1 through 4.28, inclusive as though fully set
17 forth herein.

18 5.2 This paragraph of the Complaint does not set forth a factual allegation, but
19 merely quotes 15 U.S.C. § 1692a(3), which defines the term "consumer." 15 U.S.C.
20 § 1692a(3) does not define the term "debtor." To the extent a response is required, Defendants
21 deny liability under the FDCPA.

22 5.3 This paragraph of the Complaint does not set forth a factual allegation, but
23 merely quotes 15 U.S.C. § 1692a(5), which defines the term "debt." To the extent a response is
24 required, Defendants deny liability under the FDCPA.

1 5.4 This paragraph of the Complaint does not set forth a factual allegation, but
2 partially quotes 15 U.S.C. § 1692a(6), which defines the term “debt collector.” To the extent a
3 response is required, Defendants deny liability under the FDCPA.

4 5.5 Objection, this allegation merely states a legal conclusion regarding a legal
5 opinion. To the extent a response is required, Defendants deny liability under the FDCPA.

6 5.6 Objection, this allegation merely states a legal conclusion regarding a Fifth
7 Circuit legal opinion. To the extent a response is required, Defendants deny liability under the
8 FDCPA.

9 5.7 Defendants admit only that Patenaude & Felix acts as attorneys on behalf of
10 creditor clients. Defendants object to the remainder of this paragraph of the Complaint to the
11 extent that this paragraph asserts a legal conclusion and deny on that basis.

12 5.8. Defendants admit only that Mr. Cheung acts as attorneys on behalf of creditor
13 clients. Defendants object to the remainder of this paragraph of the Complaint to the extent
14 that this paragraph asserts a legal conclusion and deny on that basis.

15 5.9 Defendants admit only that Patenaude & Felix acts as attorneys, and part of its
16 practice includes filing lawsuits on behalf of creditor clients. Defendants object to the
17 remainder of this paragraph of the Complaint to the extent that this paragraph asserts a legal
18 conclusion and deny on that basis.

19 5.10 Defendants admit only that Mr. Cheung acts as an attorney and part of his
20 practice includes filing lawsuits on behalf of creditor clients. Defendants object to the
21 remainder of this paragraph of the Complaint to the extent that this paragraph asserts a legal
22 conclusion and deny on that basis.

23 5.11 Objection, this allegation calls for a legal conclusion. To the extent a response
24 is required, Defendants deny the allegation and deny liability under the FDCPA. In addition,
25

1 Defendants are currently without knowledge or information sufficient to form a belief as to the
2 truth or falsity of the allegations set forth in this paragraph of the Complaint, and therefore
3 deny the same pursuant to Fed. R. Civ. P. 8(b)(5).
4

5 **VI. FIRST CAUSE OF ACTION**

6 6.1 Defendants re-allege paragraphs 1.1 through 5.11, inclusive as though fully set
7 forth herein.

8 6.2 This paragraph of the Complaint does not set forth a factual allegation, but
9 merely quotes 15 U.S.C. § 1692(a) and cites to a Ninth Circuit case from the State of
10 California. To the extent a response is required, Defendants deny liability under the FDCPA.

11 6.3 This paragraph of the Complaint does not set forth a factual allegation, but
12 merely cites to a Ninth Circuit case from the State of Oregon. To the extent a response is
13 required, Defendants deny liability under the FDCPA.

14 6.4 This paragraph of the Complaint does not set forth a factual allegation, but
15 merely quotes 15 U.S.C. § 1692e. To the extent a response is required, Defendants deny
16 liability under the FDCPA.

17 6.5 This paragraph of the Complaint does not set forth a factual allegation, but
18 merely quotes 15 U.S.C. § 1692e(2). Defendants admit, however, that the conduct described in
19 15 U.S.C. § 1692e(2) is an enumerated violation of 15 U.S.C. § 1692e.

20 6.6 This paragraph of the Complaint does not set forth a factual allegation, but
21 merely quotes 15 U.S.C. § 1692e(5) and cites to a case from the United States District Court for
22 the Western District of Washington. To the extent a response is required, Defendants deny
23 liability under the FDCPA.
24
25

1 6.7 This paragraph of the Complaint does not set forth a factual allegation, but
2 partially quotes 15 U.S.C. § 1692e(10). To the extent a response is required, Defendants deny
3 liability under the FDCPA.

4 6.8 This paragraph of the Complaint does not set forth a factual allegation, but
5 makes a statement about the law. To the extent a response is required, Defendants deny
6 liability under the FDCPA.

7 6.9 This paragraph of the Complaint does not set forth a factual allegation, but
8 makes a statement about the law. To the extent a response is required, Defendants deny
9 liability under the FDCPA.

10 6.10 This allegation calls for a legal conclusion and mischaracterizes a statement of
11 law. To the extent a response is required, Defendants deny this allegation of the Complaint.

12 6.11 This paragraph of the Complaint does not set forth a factual allegation, but
13 makes a statement about the law. To the extent a response is required, Defendants deny
14 liability under the FDCPA.

15 6.12 Defendants deny the allegations contained in this paragraph of the Complaint.

16 6.13 Defendants deny the allegations contained in this paragraph of the Complaint.

17 6.14 Defendants deny causing Plaintiff damage and deny liability under the FDCPA.
18 Defendants are currently without knowledge or information sufficient to form a belief as to the
19 truth or falsity of the remaining allegations set forth in this paragraph of the Complaint, and
20 therefore deny the same pursuant to Fed. R. Civ. P. 8(b)(5).

21 6.15 Defendants deny the allegations in this paragraph of the Complaint.

22 6.16 Defendants deny the allegations in this paragraph of the Complaint.

23 6.17 Defendants deny the allegations in this paragraph of the Complaint.

24 6.18 Defendants deny the allegations in this paragraph of the Complaint. Defendants
25 also deny that injunctions are a permitted remedy under the FDCPA.

1 **VII. SECOND CAUSE OF ACTION**

2 7.1 Defendants re-allege paragraphs 1.1 through 6.18, inclusive as though fully set
3 forth herein.

4 7.2 This paragraph of the Complaint does not set forth a factual allegation, but
5 quotes RCW 19.86.020. To the extent a response is required, Defendants deny liability under
6 the CPA.

7 7.3 This allegation merely states a legal conclusion. To the extent a response is
8 required, Defendants deny liability under the CPA.

9 7.4 This allegation merely states a legal conclusion. To the extent a response is
10 required, Defendants deny liability under the CPA.

11 7.5 This allegation merely states a legal conclusion. To the extent a response is
12 required, Defendants deny liability under the CPA.

13 7.6 This allegation merely states a legal conclusion. Additionally, this paragraph of
14 the Complaint does not set forth a factual allegation, but merely quotes a Washington state
15 case. To the extent a response is required, Defendants deny liability under the CPA.

16 7.7 This allegation merely states a legal conclusion. Additionally, this paragraph of
17 the Complaint does not set forth a factual allegation, but merely quotes 15 U.S.C. §45(a)(1).
18 To the extent a response is required, Defendants deny liability under the CPA.

19 7.8 This allegation merely states a legal conclusion. Additionally, this paragraph of
20 the Complaint does not set forth a factual allegation, but merely quotes 15 U.S.C. §45(a)(1).
21 To the extent a response is required, Defendants deny liability under the CPA.

22 7.9 This allegation merely states a legal conclusion. Additionally, this paragraph of
23 the Complaint does not set forth a factual allegation, but merely quotes 15 U.S.C. §45(a)(1).
24 To the extent a response is required, Defendants deny liability under the CPA.
25

1 7.10 This paragraph of the Complaint does not set forth a factual allegation, but
2 merely quotes a Washington State case. To the extent a response is required, Defendants deny
3 liability under the CPA.

4 7.11 This allegation merely states a legal conclusion. To the extent a response is
5 required, Defendants deny liability under the CPA.

6 7.12 This allegation merely states a legal conclusion. To the extent a response is
7 required, Defendants deny liability under the CPA.

8 7.13 This allegation merely states a legal conclusion. To the extent a response is
9 required, Defendants deny liability under the CPA.

10 7.14 Defendants deny the allegations contained in this paragraph of the Complaint.

11 7.15 This allegation merely states a legal conclusion. To the extent a response is
12 called for, Defendants deny Plaintiff's allegations contained in this paragraph of the Complaint
13 and deny liability under the CPA.

14 7.16 Defendants deny the allegations contained in this paragraph of the Complaint.

15 7.17 Defendants deny the allegations contained in this paragraph of the Complaint.

16 7.18 This allegation merely calls for a legal conclusion. To the extent a response is
17 required, Defendants deny liability under Washington's Collection Agency Act ("WCAA").

18 7.19 Defendants deny the allegations contained in this paragraph of the Complaint.

19 7.20 Defendants deny the allegations contained in this paragraph of the Complaint.

20 7.21 Defendants deny the allegations contained in this paragraph of the Complaint.

21 7.22 Defendants deny the allegations contained in this paragraph of the Complaint.

22 7.23 This allegation merely calls for a legal conclusion and merely cites to a case
23 from the Washington State Court of Appeals. To the extent a response is required, Defendants
24 deny liability under the WCAA and the CPA.
25

1 7.24 Defendants deny the allegations contained in this paragraph of the Complaint.

2 7.25 Defendants deny the allegations contained in this paragraph of the Complaint.

3 7.26 Defendants deny the allegations contained in this paragraph of the Complaint.

4 7.27 Defendants deny the allegations contained in this paragraph of the Complaint.

5
6 **VIII. PLAINTIFF’S PRAYER FOR RELIEF**

7 8.1 To the extent a response is called for, Defendants deny Plaintiff’s prayer for
8 relief in its entirety.

9 **IX. REQUEST FOR TRIAL BY JURY**

10 9.1 Plaintiff’s jury demand does not require a response from Defendants.

11 **X. AFFIRMATIVE DEFENSES**

12 BY WAY OF FURTHER ANSWER, and without admitting any matters previously
13 denied, Defendants assert the following affirmative defenses:

14 1. Plaintiff’s counsel, in bad faith, and with unclean hands, affirmatively took
15 steps to prevent Defendants from complying with the FDCPA and thereby create this lawsuit.

16 2. This action has been brought in bad faith and for the purpose of harassment so
17 that, pursuant to 15 U.S.C. § 1692k(a)(3). Defendants are entitled to an award of reasonable
18 attorney fees and costs.

19 3. Plaintiff’s counsel has unreasonably and vexatiously multiplied the proceedings,
20 subjecting her to personally satisfy the excess costs, expenses, and attorneys’ fees reasonably
21 incurred because of such conduct pursuant to 28 U.S.C. § 1927.

22 4. To the extent that Plaintiff has stated a claim under the FDCPA, her claims are
23 barred by the “bona fide error” exception of the FDCPA 15 U.S.C. § 1692k(c).

5. To the extent that Plaintiff has stated a claim under the FDCPA, such claims were caused by the acts and omissions of third-parties over whom Defendants did not have control, and therefore Defendants should not be liable.

6. Plaintiff may have failed to timely serve Defendants.

7. Plaintiff's claims may be barred by the statute of limitations.

8. Defendants did not violate the federal Fair Debt Collection Practices Act (“FDCPA”).

9. Plaintiff's FDCPA claims are barred in regard to events that occurred after commencement of representation by counsel, pursuant to *Guerrero v. RJM Acquisitions LLC*, 499 F.3d 926 (9th Cir. 2007).

10. Plaintiff owed the debt sued upon in the underlying case, and her damages, if any, were caused or contributed to by her own actions, either intentional or otherwise.

11. The acts of Defendants were undertaken in good faith under a reasonable interpretation of the law.

12. Plaintiff has failed to mitigate her damages, if any.

XI. RESERVATION OF RIGHTS

Defendants reserves the right to amend this Answer by way of adding affirmative defenses, counter claims, cross claims, or third-party claims as the existence of such claims is discovered in the future.

XII. DEFENDANT'S PRAYER FOR RELIEF

Having answered Plaintiff's Complaint, Defendants pray for judgment as follows:

1. For Plaintiff's Complaint to be dismissed with prejudice;

2. For Defendants to be awarded reasonable attorney's fees and taxable costs incurred in defending this cause to the fullest extent under the law;

3. For sanctions for bad-faith litigation under Rule 11, 15 U.S.C. § 1692k(a)(3), and the inherent authority of this court.

LEE SMART, P.S., INC.

Marc Rosenberg, WSBA No. 31034
Of Attorneys for Defendants
Patenaude & Felix, A.P.C.,
and Matthew Cheung

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CERTIFICATE OF SERVICE

I hereby certify that on the date provided at the signature below, I electronically filed the preceding document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following individuals:

Antoinette Marie Davis tonie@toniedavislaw.com

Kirk D Miller kmiller@millerlawspokane.com

Christina Latta Henry chenry@hdm-legal.com

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, to the best of my knowledge.

Dated this 2nd day of October, 2015 at Seattle, Washington.

LEE SMART, P.S., INC.

By: /s/ Marc Rosenberg

Marc Rosenberg, WSBA No. 31034
Of Attorneys for Defendants
Patenaude & Felix, A.P.C.,
and Matthew Cheung

1800 One Convention Place
701 Pike St.
Seattle, WA 98101-3929
(206) 624-7990
mr@leesmart.com